IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 206 OF 1997

Nirmala Kashinath Gaikwad
Residing at Alibag
District Raigad. ..Applicant

Vs.

1. Vinayak Mahadeo Patil
2. Nirmala Vinayak Patil
3. Randhir Vinayak Patil
   All residing at Modiwada,
   Alibag, Tal. Alibag,
   District Raigad
4. State of Maharashtra ..Respondents

Mr.Sachin Punde h/f Ms. Madhavi Mhatre for the applicant.
None for respondent nos.1 to 3.
Ms. R.M. Gadhvi, APP for respondent no.4-State.

CORAM: B.H. MARLAPALLE, J.

Date : January 23, 2007.

ORAL JUDGMENT:

1. This criminal revision application arises from the order of acquittal passed by the learned Sessions Judge, Raigad-Alibag for the offences punishable under Sections 498-A and 306 read with Section 34 of IPC on 14/5/1997 in Sessions Case No. 84 of 1996. The State did not file an appeal against the said order and, therefore, this revision has been filed by the

original complainant Nirmala Gaikwad, the mother of deceased Rupali @ Sonali who committed suicide on 18/3/1996.

2. Rupali was married to Randhir, the present respondent no.3 and he is the son of the respondent nos.1 and 2. In fact, it was a love marriage and the said marriage was opposed by the complainant herself. But Rupali eloped with respondent no.3 and got married on 29/6/1995. While she was staying in the matrimonial home, her parents did not call on her at any time and on 18/3/1996 she died in the civil hospital on account of poisoning. The post mortem report at Exh.21 clearly stated that Rupali died due to consumption of organo phosphorous which is poisonous. Message was sent to the parents of Rupali on the same day. The inquest panchanama was drawn at Exh.29 and the police had recorded a death of accidental. However, the present applicant lodged the complaint on 23/3/1996 alleging that the deceased was being tortured and harassed and ill-treated and, therefore, she committed suicide. Consequently, the

respondents were taken in custody and were put on charge for the offences punishable under Sections 498-A and 306 read with Section 34 of IPC.

3. The prosecution examined in all 7 witnesses and PW 6 Head Constable Jadhav and PW 7 PSI Bagwe were the police personnel who completed the investigation. PW 6 Jadhav was on duty in the civil hospital and he had received the intimation about the admission of Rupali on account of poisoning from the doctor concerned. He had recorded the inquest panchanama Exh.29. PW 5 Mangesh Nigwekar was the panch witness for the spot panchanama. Viscera was preserved and sent to the Chemical Analyser whose report was received at Exh.24 and it indicated that Baygon was found in the viscera. Empty tin of Baygon was also found in the house when the spot panchanama was drawn. The medical report, therefore, clearly indicated that Rupali died a suicidal death on consumption of poison.

4. The evidence of PW 1 to PW 4 was considered by the learned Sessions Judge and noted that there was no

direct evidence of any witness regarding the allegations of cruelty. It was the case of the complainant that deceased Rupali used to complaint to her on phone regarding the ill-treatment and cruelty etc. at the hands of the respondents-accused. It was noted by the trial court that from 29/6/1995 to 18/3/1996 Rupali was staying in her matrimonial home and she has never contacted her parents. On the other hand, the letter produced at Exh.15 which was written by the complainant-Nirmala stated that Rupali would not be allowed to meet any of the relations and her ties with her parents were totally terminated at the instance of Nirmala. There was Satyanarayan Pooja arranged in Nirmala's house on 19/3/1996 and Rupali was staying just in front of the office of Nirmala. Rupali was informed that she would not be allowed to enter Nirmala's house on the Pooja day and she would not be allowed to see any of the relations. It was under these circumstances that Rupali, who married the present respondent no.3 against the desire of her parents ended her life by consuming poison on 18/3/1996 i.e. one day prior to the Pooja scheduled in the house of her mother.

5. The case of PW 1 that Rupali was calling her and complaining about ill-treatment has been discarded by the learned trial Judge by analysing the evidence and more particularly on account of the fact that the complainant was not on talking terms with Rupali and Rupali was even told not to keep contacts as she had performed her marriage against the desire of her parents. The evidence of PW 1 was not corroborated by any other circumstances or evidence. The alleged disclosure that Rupali was calling PW 1 on phone and complaining about ill-treatment was noted to be an improvement made by the complainant over the original complaint she had filed with the police. The trial court further noted that there was no evidence about the alleged harassment to Rupali. The evidence of Nirmala has been discarded by the trial court and rightly so as it is not corroborating by any other circumstances or evidence. The prosecution failed to prove that Rupali being subjected to cruelty at the hands of the respondents-accused and, therefore, charge of abetment to commit suicide could not be proved. The reasoning set out by the learned Sessions

Judge, on sifting the evidence of the prosecution, cannot be termed as grossly erroneous or perverse and undoubtedly, the prosecution failed to bring home the charge under Sections 498-A and 306 read with Section 34 of IPC against the present respondents-accused.

5. Hence, this criminal revision application fails and the same is hereby dismissed.

(B.H. Marlapalle,J.)